



STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

2110 Ironwood Parkway • Coeur d'Alene, Idaho 83814 • (208) 769-1422

C.L. "Butch" Otter, Governor  
Toni Hardesty, Director

June 5, 2007

Mr. Brad Daly  
U.S. Army Corps of Engineers  
Walla Walla District  
Regulatory Division  
201 North 3<sup>rd</sup> Ave  
Walla Walla, WA 99362-1876

RE: Draft §401 Certification of Regional Permit Number 27

Dear Mr. Daly,

We have reviewed your proposed Regional Permit 27 to authorize certain work in Lake Pend Oreille and Pend Oreille River and have prepared a draft certification. DEQ will accept written comments from the public on this draft certification for 30 days. At the end of this comment period, DEQ will consider the comments and provide a final certification decision.

Pursuant to the provisions of Section 401 (a)(1) of the Federal Water Pollution Control Act (Clean Water Act), as amended, 33 USC Section 1341 (a)(1), and Idaho Code §§ 39-101 et seq., and 39-3601 et seq., the Idaho Department of Environmental Quality (IDEQ) has authority to review Section 404 permits and issue a water quality certification decision.

IDEQ certifies that permit holders authorized under Regional Permit 27 who comply with the terms and conditions imposed by the above referenced permit set forth by the Army Corps of Engineers Walla Walla District (Corps) and the condition set forth in this water quality certification, there is reasonable assurance the discharges will comply with the applicable requirements of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, including the Idaho Water Quality Standards (IDAPA 58.01.02). The certification condition is as follows:

1. There shall be no grounding of barges associated with permitted activities.

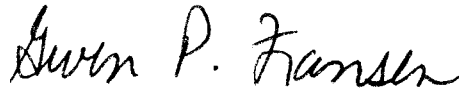
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Any modification or amendment to the regional permit, which DEQ expects will result in additional impacts to water quality, shall require a new 401 water quality certification from DEQ before any construction activities affected by the modification or amendment may proceed.

This certification does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity. This certification does not excuse the permit holder from the obligation to obtain any other necessary approval, authorizations or permits, including without limitation, the approval from the owner of a private water conveyance system, if one is required, to use the system in connection with the permitted activities.

This §401 Water Quality Certification, when finalized, may be appealed pursuant to the Environmental Protection and Health Act, Idaho Code 39-107(5), the Idaho Administrative Procedure Act and the rules of Administrative Procedure before the Board of Environmental Quality, IDAPA 58.01.23. Such an appeal is a prerequisite to any district court action and must be initiated by filing a petition for a contested case in accordance with the Rules of Administrative Procedure before the Board of Environmental Quality (IDAPA 58.01.23) within thirty-five days of the date of this 401 certification.

Sincerely,



Gwen P. Fransen, Regional Administrator  
Coeur d'Alene Regional Office

cc:

Barbara Bengé - Army Corps of Engineers  
Jim Brady - Idaho Department of Lands  
Mary Terra-Berns, Idaho Fish and Game  
John Olson - U.S. Environmental Protection Agency